IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.4226 of 1999

Between:

1 K. Subba Rao (Died per LRs), S/o. Venkaiah
R/o. 468/BF, Ash Colony, Ktps, Palvancha,
Khammam District.
2 Smt. K. Janakamma, W/o late K . Subba Rao,
R/o. 8-1-113, Gattaigudem, Paloncha, Khammam District.
3 K. Sreenivasa Rao, W/o Late. K . Subba Rao,
R/o. 8-1-113, Gattaigudem, Paloncha, Khammam District.

(Petitioners 2 & 3 came on record as LRs of

deceased petitioner as per Court Order

dt. 2.11.2004 in WPMP.No. 24239/04)

..... PETITIONERS

AND

1 The Chief Engineer, Kothagudem, Thermal Power

Station, Palvancha,
Khammam District.
2 The Superintending Engineer, Administration, KTPS,
Palvancha, Khammam District.
3 A.P. Power Generation Corporation Ltd.,

rep. by its General Manager Administration,
Viduth Soudha, Hyderabad.

(R3 impleaded as per Court Order in

WPMP No.18236/01, dt.10-6-2003)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate Writ, Order or Direction, more particularly one in the nature of writ of Mandamus, declaring the action of the Respondent No.1 in directing the petitioner to retire from service w.e.f. 28.2.1999 A.N. by his Proceedings in Memo No.CE/O&M/KTPS/ ADB/B1/Pensions/DE4/99, dt. 20.2.1999, received by the petitioner on 27.2.1999 as arbitrary illegal, unfair and violative of Art. 14 of the Constitution of India.

Counsel for the Petitioner: Mr. P.V.RAMANA

Counsel for the Respondents: Mr. SAMINENI KISHORE

The Court made the following :

ORAL ORDER:

This Writ Petition is filed initially by one K. Subbarao seeking a Mandamus to declare the Order passed by the 1st respondent on 20-2-1999 retiring him from service with effect from 28-2-1999 as arbitrary and illegal. However, during the pendency of the Writ Petition, the writ petitioner died and petitioners 2 and 3 were brought on record as per the Order of the Court dated 2-11-2004.

The only question that falls for consideration in this Writ Petition is whether the entry made by the respondents as to the date of birth of the deceased writ petitioner was 25-11-1944 or 1-7-1935.

Admittedly, the date of birth of the writ petitioner was originally entered as 25-11-1944. However, the same was altered in the year 1987 as 1-7-1935. If the first date of birth of 25-11-1944 is taken into consideration, he would have retired by 30-11-2002. If the second date of birth i.e. 1-7-1935 is taken into consideration, he would have retired on 30-6-1993 on attaining the age of superannuation. Though the writ petitioner admits that the date of birth was altered as 1-7-1935, he asserts that he has filed an appeal against the said alteration and the same was not disposed of.

Once it is not disputed that the date of birth of the petitioner was altered in the year 1987 as 1-7-1935, it cannot be said that whether the date of birth altered by the respondents as 1-7-1935 is correct or not. In view of the fact that practically there is no documentary evidence in this regard produced by the petitioners either before the

authorities or before this Court for the purpose of adjudicating as to the correct date of birth of the petitioner, which in fact, cannot be done by this Court under Article 226 of the Constitution of India, I do not find any grounds to interfere with the matter.

For all the above reasons, I am of the opinion that no question of law involved in this case to be adjudicated upon by this Court. The Writ Petition is devoid of merits and liable to be dismissed. Accordingly, the Writ Petition is dismissed. No order as to costs.

05-7-2005

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Chief Engineer, Kothagudem, Thermal Power

Station, Palvancha,
Khammam District.
2 The Superintending Engineer, Administration, KTPS,
Palvancha, Khammam District.
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